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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/855,135	05/14/2001	Tadashi Tachibana	04995.010001	9077

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EXAMINER

BOCCIO, VINCENT F

ART UNIT PAPER NUMBER

2616

DATE MAILED: 06/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/855,135

Applicant(s)

TACHIBANA, TADASHI

Examiner

Vincent F. Boccio

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 5/1/01
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_

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**DETAILED ACTION**

The Group and/or Art Unit location of your application in the PTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Group Art Unit 2616.

**Claim Rejections - 35 USC § 103**

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

2. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsushita Katsuhiko et al. (JP PUB date 11/24/1998, 10-3126289) in view of Oh et al. (US 6,826,139, filing date 4/1998).

Regarding claims 1-4, Katsuhiko, discloses and meets the limitations as recited associated with an apparatus and corresponding method associated with a digital video disc player, that reads data from predetermined plural kinds of mediums comprising:

- an optical pick-up (page 1, DVD, CD are optical, requiring at least one, optical head or pickup,

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claims, pages 1 of 2 or detailed description pages 1-4, Fig. 1);

- judgment means that specifies the kind of disc medium,, mounted; by detecting a reflection factor from the output of the pickup, setting a parameter at least for servo control thereafter to try to read from the disc (page 1 of 2, claims "reflected light of a light beam", referred to as HF, page 1 of 4, description, "reflection factors", see whole document);
- servo processing means that controls the position relation between the medium and pick-up according to the kind (page 3 of 4 of "description", [0050], servo and gain ... changed into a condition being adapted for two layer or single).

The prior art, page 3 of 4, of description has a table for DVD, DVD and CD, being one and two layer DVD and CD, therefore, with the specification of reflectivity or reflective or mirror factor evaluation, the disc type can be identified, as either CD, single DVD or Double layer DVD and deemed to read on all claim language,

- but, the examiner has not found an areas identifying what type of data is recorded to the disc or the prior art is deemed silent on this limitation.

The examiner takes official notice that DVDs, single and double layer types and CDs, being digital storage type media, it is well known to record or having recorded or stamped data thereto, being any of video or audio or video and audio or even any type of digital data can be carried on these types of media, therefore, it would have been obvious to those skilled in the art at the time of the invention to have thereon video and/or audio data, as is well known and conventional, thereby rendering obvious the limitations of signal processing upon first detection of disc type, adjusting servo and gain, as necessary based on the attributes of the disc detected thereafter to attempt to read on setting the parameters and thereafter, reproduce video and/or audio therefrom based on the detected media

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type, being one of CD, DVD single or DVD double, as is obvious to those skilled in the art.

It is further noted the limitation, as recited, "setting servo to presumed kind, based on reflection factor", met by Katsuhiko, but, as applied the art fails to disclose, "reading the disc based on the presumed kind, setting .. servo in sequence to parameters of other kinds to try for each setting in case the data is not readable".

To clarify, originally decide on the type based reflection factor, upon data not being readable, based on the servo setting selected and decided based on the reflection, go through other possible servo parameters settings based on other known types, in case that the decided based on the reflection detected is presumed incorrect, based on data is not readable, till reading is possible (coined by the examiner, as the brute force method, try until something works.).

Oh in Fig. 3, teaches, step 32, CD laser beam, to step 34, "readable", "no", step 46, try DVD laser, step 48, "readable", "no", step 50, discriminate other disc type, as taught by Oh, therefore, teaches trying a setting, when not the correct, try another, when not correct, try again, as taught by Oh, therefore, try, try again, till you get it, or a brute force Method.

Therefore, it would have been obvious to those skilled in the art at the time of the invention to modify Katsuhiko by after the initial decision based on reflection is made, upon Data Not Readable to try other servo, laser settings corresponding to other media types in order to locate the correct one of many, in order for the player to play.

Further, the reasoning of why one skilled in the art would render an obvious combination is that, upon a situation that the detection is not correct based on the reflection factor, there seems to be no solution in Katsuhiko, therefore, upon is issue that the detection is incorrect, or cannot be made correctly it seems obvious to try another method in order to made a determination of the kind or the system seems like without would hang, therefore, a work around this issue seems to be an obvious design choice upon failing of detection of the reflectivity system, as would have been obvious to those skilled in the art.

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**Contact Fax Information**


Any response to this action should be faxed to:

(703) 872-9306, (for communication intended for entry)

**Contact Information**

Any inquiry concerning this communication or earlier communications should be directed to the examiner of record, Monday-Tuesday & Thursday-Friday, 8:00 AM to 5:00 PM Vincent F. Boccio (571) 272-7373.

Primary Examiner, Boccio, Vincent  
5/30/05

  
VINCENT BOCCIO  
PRIMARY EXAMINER